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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/922,780 | 08/07/2001 | Takefumi Kawasaki | D-1108 | 8869 |
| 32628 | 7590 | 08/23/2004 | EXAMINER | |
| HAUPTMAN KANESAKA BERNER PATENT AGENTS SUITE 300, 1700 DIAGONAL RD ALEXANDRIA, VA 22314-2848 | | | LAU, TUNG S | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2863 | |

DATE MAILED: 08/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/922,780

Applicant(s)

KAWASAKI, TAKEFUMI

Examiner

Tung S Lau

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5 and 8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 4, 5, 8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

a. Claims 1, 3, 4, 5, 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogawa et al. (U.S. Patent 5,625,457) in view of Creamer et al. (U.S. Patent 6,411,697).

Regarding claims 1, 5:

Ogawa discloses a system for a material testing machine, comprising a material testing machine having a load mechanism for applying a load to a test piece (Col. 3, Lines 25-65), sensors for detecting information regarding a load caused by the load mechanism and information regarding a condition of the test piece in accordance with the load (Col. 3, Lines 25-65), and a computer electrically connected to the sensors for receiving outputs from the sensors and processing data to thereby obtain test information of the material testing machine and image data containing load-elongation curve (Col. 3, Lines 25-65, Col. 4, Lines 15-35).

Ogawa does not disclose an outside provider electrically connected to the computer, control computer, and having a web site established therein for

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receiving outputs of the computer to update the test information and image data periodically to the web site, said web site including updated test information accessible at any time from another computer or a portable terminal, using a cellular phone by electronic mail to the outside provider to update information, image update.

Creamer discloses an outside provider electrically connected to the computer, control computer (fig. 1, unit 34), and having a web site established therein for receiving outputs of the computer to update the test information and image data periodically to the web site (fig. 4, unit 38, 50, 46), said web site including updated test information accessible at any time from another computer or a portable terminal (Col. 7, Lines 34-40, Col. 4-5, Lines 5-23), using a cellular phone by electronic mail to the outside provider to update information (Col. 4-5, Lines 51-23), image update (fig. 5, unit 24, 30, 31) in order for users have remote sharing function of the result to the service provider and user friendly to the customers (Col. 3, Lines 24-36).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ogawa to have an outside provider electrically connected to the computer, control computer, and having a web site established therein for receiving outputs of the computer to update the test information and image data periodically to the web site, said web site including updated test information accessible at any time from another computer or a portable terminal,

using a cellular phone by electronic mail to the outside provider to update information, image update as taught by Creamer in order for users have remote sharing function of the result to the service provider and user friendly to the customers (Col. 3, Lines 24-36).

Regarding claims 3, 4, 8:

Ogawa discloses a method of testing material including the subject matter discussed above except the use of outside provider to send electronic information to the control computer, obtain information from a website, a terminal is a cellular phone, use the data as an attachment. Creamer discloses the use of outside provider to send electronic information to the control computer (fig. 1, unit 34), obtain information from a website (fig. 3, unit 38, fig. 4, unit 38, 46fig. 6, unit 38), a terminal is a cellular phone (fig. 3, unit 28), use the data as an attachment (fig. 5, unit 24, 30,31, fig. 6, unit 38), in order to have a remote information easy access by any computer system (Col. 3, Lines 24-36).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ogawa to have the use of outside provider to send electronic information to the control computer, obtain information from a website, a terminal is a cellular phone, use the data as an attachment as taught by

Creamer in order to have a remote information easy access by any computer system (Col. 3, Lines 24-36).

Response to Arguments

2. Applicant's arguments filed 7/19/2004 have been fully considered but they are not persuasive.

A. Applicant argues in the lengthy arguments that the prior art does not show the 'system for receiving the test information made by the outside machine'. Creamer discloses 'system for receiving the test information made by the outside machine' in Col. 7-8, Lines 54-6, fig. 4, unit 38,50, 46, fig. 1, unit 30, 36, 26, fig. 6, unit 1, 2, 38, 19, 20, 30, 4.

Reminds to the applicants while the meaning of claims of issued patents are interpreted in light of the specification, prosecution history, prior art and other claims, this is not the mode of claim interpretation to be applied during examination. During examination, the claims must be interpreted as broadly as their terms reasonably allowed. This means that the words of the claim must be given their plain meaning unless applicant has provided a clear definition in the specification. In re Zletz, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989), and in Col. 7-8, Lines 54-6, fig. 4, unit 38,50, 46, fig. 1, unit 30, 36, 26, fig. 6, unit 1, 2, 38, 19, 20, 30, 4, Creamer discloses 'system for receiving the test information made by the outside machine'.

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B. Applicant continues to argue in the lengthy arguments that the prior art does not show the 'update information using cell phone'. Creamer discloses 'update information using cell phone' in Col. 7-8, Lines 54-6, Col. 10, Lines 10-39, fig. 1, unit 26, 36, 30.

C. Applicant continues to argue in the lengthy arguments that the prior art does not show the 'update test information using cell phone provider'. Creamer discloses 'update test information using cell phone provider' in Col. 7-8, Lines 54-6, Col. 10, Lines 10-39, fig. 1, unit 26, 36, 30, 34.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tung S Lau whose telephone number is 571-272-2274.

The examiner can normally be reached on M-F 9-5:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on 571-272-2269. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-5841 for Official RightFAX, for regular communications and 703-308-5841 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956. TC2800 FAX

Telephone Numbers: 703-872-9306

TC2800 Customer Service FAX - (703) 872-9317

TL


John Barlow
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